

**REMARKS**

Claims 1, 5, 8-12, 19, 21-23, 37-38, 40-52, 54-62, 64, 66-80, 83 and 85-89 are pending in this application. Claims 19, 21-23, 37-38, 40-52, 54-62, 64, 66-79 and 88-89 are presently withdrawn from consideration.

By this Amendment, claim 1 is amended to include the features of claim 27 and allowable claim 82. Claim 8 is amended to include the features of claim 31 and allowable claim 84. Claim 10 is amended to depend from claim 9. Claim 83 is amended to depend from claim 1. Claim 85 is amended to depend from claim 8. Claims 4, 6-7, 16-18, 27-28, 31-32, 35-36, 81-82 and 84 are canceled. No new matter is added.

In view of the foregoing amendments and the following remarks, reconsideration and allowance of claims 1, 5, 8-12, 19, 21-23, 37-38, 40-52, 54-62, 64, 66-80, 83 and 85-89 are respectfully requested.

**Allowable Subject Matter**

Applicant thanks the Examiner for the indication that claims 5, 9, 11-12\* and 82-87 contains allowable subject matter.

**35 U.S.C. §102(e) Rejection**

Claims 1, 4, 6-8, 10, 16-18, 27-28, 31-32, 35-36 and 80-81 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Miyazawa (U.S. Patent No. 6,791,608). Applicant respectfully traverses this rejection.

Claim 1 is amended to incorporate the features of allowable claim 82. Thus, the Patent Office admits that Miyazawa does not describe at least the features of amended claim 1 reciting: "...the defect information generating unit simultaneously generates information

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\* The Patent Office indicated claim 10 (incorrectly identified as depending from claim 9) as allowable, but also rejected claim 10 under 35 U.S.C. §102(e). Applicant addresses the 35 U.S.C. §102(e) rejection of claim 10 below.

indicating a position of the projected image of the defect within the optical path and information indicating intensity of the projected image of the defect within the optical path and records the position information and the intensity information, and the defect information generating unit includes a relative ratio calculation unit that calculates a relative ratio of the value at the target pixel and the average value of the plurality of pixel values corresponding to the pixels present within the predetermined range containing the target pixel, and generates the defect information based upon the calculated relative ratio."

Claim 8 is amended to incorporate the features of allowable claim 84. Thus, the Patent Office admits that Miyazawa does not describe at least the features of claim 84 that recite: "the defect information generating unit simultaneously generates information indicating a position of the projected image of the defect within the optical path and information indicating intensity of the projected image of the defect within the optical path and records the position information and the intensity information, and the defect information generating unit includes a relative ratio calculation unit that calculates a relative ratio of the value at the target pixel and the average value of the plurality of pixel values corresponding to the pixels present within the predetermined range containing the target pixel, and generates the defect information based upon the calculated relative ratio."

Claim 80 depends from claim 1. For at least its respective dependency, and for the additional features recited, Miyazawa also does not anticipate claim 80.

Amended claim 10 depends from allowable claim 9. Thus, for at least its respective dependency, and for the additional features recited, Miyazawa also does not anticipate claim 10.

Claims 4, 6-7, 16-18, 27-28, 31-32, 35-36 and 81 are canceled and the rejection of these claims is moot.

In view of the above, withdrawal of the rejection is respectfully requested.

**Rejoinder**

Applicant respectfully requests rejoinder of claims 19, 21-23, 37-38, 40-52, 54-62, 64, 66-79 and 88-89 upon allowance of claims 1, 5, 8-12, 83 and 85-87.

**Concluding Remarks**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 5, 8-12, 19, 21-23, 37-38, 40-52, 54-62, 64, 66-80, 83 and 85-89 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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